AVIATION TECHNOLOGIES LTD.

Administrative Offices: 4959 - Talbot Lane, Unit # 69, Reno, Nevada 89509 Physical Operations: Tonopah Airport, Tonopah, Nevada

Aviation Technologies Led., "ATL" PRINCIPAL FLACE OF BUSINESS: TONOPAE, AIRPORT, NYE COUNTY, NEVADA

Robert Alan Kemp

Chief Executive Officer - Aviation Technologies Ltd

[Representing]

NEVADA CENTRAL

VIA - USPS and IMMEDIATE OFFICIAL FAX FILING

The Honorable Charles D. Nottingham, Chairman - STB.

The Honorable Ann K. Quinlan, Acting Secretary

Office of the Chairman and Secretary Surface Transportation Board

395 - E Street, SW.

Washington, DC 20423-0001

(Tuesday), April 8, 2008

Office of Proceedings

2008

RE:

Docket No.

FD - 35106

(US - DEPARTMENT OF ENERGY)

[Notice of Intent to Participate in Proceeding - With Comment], and Notice of Intent to file [Motion/Petition to Reject and Dismiss with Prejudice, and or Stay Application, on or before: Wednesday. April 16th., 2008.]

Concerning:

United States Department Of Energy -

Rail Construction And Operation - Caliente Line in Lincoln, Nye, and Esmeralda Counties, Nevada

Dear Chairman Nottingham, Secretary Quinlan:

We are writing today in relation to the (US-DOE), "Notice of Application" Filed on March 17^a., 2008, under Docket Number FD ~ 35106. Please now be advised that: NEVADA CENTRAL RAILROAD intends to participate within the instant proceeding and as such now files its [Notice of Intent to Participate in Proceeding - With Comment), as well as its: (Notice of intent to File Motion/Petition to Reject and Dismiss with Prejudice, and or Stay Application, on or before: Wednesday, April 16th., 2008]. If You or Your Staff have any questions or comments, please feel free to contact me personally 24-7 at the following telephone nugroer and or entail address,

Very truly yours,

Robert Alan Kemp

atiny dia ol.com

Acting Representative and Lengl Resident Agent for:

NEVADA CENTRAL RAILROAD

cc: Mr. John T. Digilio, Jr., Vice Chairman - Director/President,

Nevada Central Railroad

Mr. Joseph Anthony McNulty, III - Director/Vice President, Nevada Central Railroad

UNITED STATES OF AMERICA

STB FINANCE DOCKET NO. 35106 UNITED STATES DEPARTMENT OF ENERGY - RAIL CONSTRUCTION AND OPERATION - CALIENTE LINE IN LINCOLN, NYE, AND ESMERALDA COUNTIES, NEVADA

NCR - NOTICE AND PRELIMINARY COMMENTS

- 1. Notice is hereby given that NEVADA CENTRAL RAILROAD hereafter ("NCR"), intends to participate as a party of record in the above entitled proceeding. Therefore, please direct a copy of all matters pertaining to this proceeding to: Nevada Central Railroad; C/O: NCR Nevada State Resident Agent, Robert Alan Kemp, 4959 Talbot Lane, Unit: # 69, Reno, NV 89509. Telephone: (775) 827-3258
- 2. During 1996 at the Direct Request of the US-Department of Energy, hereafter ("DOE"), NCR provided its (Privileged, Corporate Confidential & Proprietary): [Notice of Construction, and Operational Construction Development and Operations Plan], for the NEVADA CENTRAL BYPASS-176., hereafter ("NCR-By-Pass-176."), by hand delivering same to DOE Officials in Las Vegas, Nevada, to Include Personal Hand Delivery of same to DOE by handing same to Mr. Wesley Barns.
- 3. On the afternoon of (Monday), May 17th, 2004, NCR again provided Official Confirmed Notice of the Construction of the NCR-By-Pass-m., to the DOE, as well as Public Notice of Confirmed Communications with the DOE concerning NCR. See Exhibit attached hereto and identified below as:

[NCR: US-FEDERAL COURT OF APPEALS DISTRICT OF COLUMBIA EXHIBIT-13-1.]

- 4. DOE's Application for Construction & Operation does NOT conform with the following United States Government Congressional: (Title 49 rati transportation policies):
- 4-A. to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

- 4-B. to ensure the... continuation of a sound rail transportation system., to meet the needs of the public;
- 4-C. to reduce regulatory barriers to entry into and exit from the industry;
- 4-D. to encourage and promote energy conservation; and
- 5. Granting DOE's Application would Contravene other CRITICAL rail transportation policies.
- 6. Granting DOE's Application would result in irreparable CATASTROPHIC DAMAGE to NCR. NCR has previously executed an engagement for the Provision of Legal Securities Services, confirming NCR's ability to proceed and complete the Sale of Corporate Bonds in the amount of: \$ 3.995-Billion-USD., in order construct the NCR-ByPass-TM.
- 7. Granting DOE's Application will result in the Permanent loss of revenue to the State of Nevada in an amount not less then (\$ 11-Billion-USD.) Over a 50-Year Period, including ANY OFFSET for the loss of Access To, and Use of Public Lands.

Submitted by NCR to STB via Facsimile: Tuesday, April 8th., 2008.

By: Robert Alan Kemp, NEVADA CENTRAL RAILROAD

(775) 827-3258

01/27/1997 21:35

AVIATION TECHNOLOGIES LTD.

Administrative Offices: 4959 - Talbot Lano, Unit # 69, Reno, Nevada \$9509 Physical Operations: Tonopah Airport, Tonopah, Nevada Aviation Technologies Lid., "ATL" PRINCIPAL PLACE OF BUSINESS. TOYOPAH AIRPORT, YYE COUNTY, NEVADA

Robert Alan Kemp

Chief Executive Officer - Aviation Technologies Ltd.

[Representing]

NEVADA CENTRAL RAILROAD

RE:

FD - 35106 Docket No.

(US - DEPARTMENT OF ENERGY)

[Notice of Intent to Participate in Proceeding - With Comment], and Notice of Intent to file [Motion/Petition to Reject and Dismiss with Prejudice, and or Stay Exemption, on or before: Wednesday, April 16th., 2008,1

Concerning:

United States Department Of Energy -

Rail Construction And Operation - Caliente Line in Lincoln, Nye, and Esmeralda Counties, Nevada

CERTIFICATE OF SERVICE

I, Robert Alan Kemp certify that on this 8th day of April, 2008, that I made service of the attached original NCR [Notice of Intent to Participate In Proceeding - With Comment] and Notice of Intent to file [Motion/Petition to Reject and Dismiss with Prejudice, and or Stay Exemption, on or before: Wednesday, April 15th., 2008. upon the Surface Transportation Board, (STB), and mailed a Single Copy of same to all Parties, Agencies, and Individuals, listed for Service within the DOE Application/Petition: FD: 35106, by depositing same into the United States First Class Mail with prepaid postage, and also Directly to the STB via IMMEDIATE FAX DELIVERY FILING to: (202) 245-0458.

Robert Alan Kemp

Chairman & CEO., AVIATION TECHNOLOGIES LTD.,

4959 - Talbot Lane, Unit: #69

Reno. Nevada, 89509

(775) 827- 3258

Representing:

NEVADA CENTRAL RAILROAD

INCR: US-FEDERAL COURT OF APPEALS DISTRICT OF COLUMBIA EXHIBIT-13-1.1

11

14

15

16

17

18

19

20

21

22

10

11

13

14

15

16

17

18

19

20

21

LAS VEGAS PUBLIC COMMENTS 5/17/2004

Page 1

2 3

> YUĆCA MOUNTAIN SCUPING MEĒTING PUBLIC COMMENTS

8 Q 10

11

12

13

14

15

16

17

18

19

20

REPORTER'S TRANSCRIPT OF PUBLIC COMMENTS

...

Taken at Cashman Center 850 Las Vegas Boulevard North, Rooms 103-106 Las Voges, Novada

> On Monday, May 17, 2004 At 3:00 p.m.

2

3

12

14

15

16

17

19

20

21

22

Reported by: Deborah Ann Hines, CCR #473, RPR

To keep it underground, this is what I st. Dig the hole underground. Maker rectly to Yucca Mountain. That w abol round would ever be seen.

sk DOE should have the that they need to d the rail system, but ! undergroup where it can be unique in case stating may con accident. That may DOE control of the and scaled off p as a horrific protected, we can protect our gove a protect the people and we can protect the verything, all the build support this one Hving crestures on it they kept it underground. 13 hundred percent as God bless you s D you.

of to have it because we see what gas is. We see our want before any Overalla energy. Wel rices are uso it. prices are to go up. Noutraliza is ecting. have it for every life that is We: **E** to 14 irth rights instead of inheriting w y. We inherit the wealth and all the it takes to keep us what, wealthy for the nainder of the turn of the centuries.

· Bocause, remember, nuclear energy is around forever. Am I correct? So let's treat it like it's

BAAC HENDERSON: My commont is o nucle apportation from Caliente to Las Ve Does this param include the protection of animals, the large of the county, the well the city, the way of the county, the we does it protect and save a publitary from in to clean up if there is perced to socident that would give zation of the event in order to put even perspective for us to make in ick into like it was before 10 11 the incident happened?

Also I want to king ज सर्वे or historical 13 protected from the wa nd desert are pri protected, our moun the media and news Nevada, just as y rachos, teachers yers, judges, the general proceed also just in case if there that would be W25 (III) 309

ent to know if there is any grants to utilize some of the services that for Cahente to help their needy, to help the to for jobs, food, benefits in order to help p that project continuously risming. Once we it, we want to continue it, not to discontinue

greate be around forever. But let's use it as keep to here we can suppress it in order to channel the tight areas where it can 2 3 the right areas where it can what, the district results as far as our lifestyle, the and life. All we want the good life. All DOR would life de live ve the good life as far as the gamment to in and maintain and been control.

because you guys Want DOE to ke have what, the will, the e mind, the attitude, the experience and the g and the engineering to do this. So I feel, ما يوشخ impossible for you that decision, that DOE grant that they want that DOE government they want, keep it undergrounded DOE gives but I hope that US What we

DREW: Beakground: It is lividuals and organizations cui ROI the Yucca Mountain Project would ce enormous relief of their fears if all v observe daily, as I have, the professionalis integrity of the women and men who work on t ucca Mountain Project. I have simply never seen a sigher level of dedication and work athic in any other workplace in the three decades I have been m

1 (Pages 1 to 4)

6/21/2004 www.lauriewebb.com

Lauric Webb & Associates 800-982-3299

702-386-9825 Page -5-

Page 39

3

10

н

12

13

14 15

16

17

18

5

10

14

17

12

(NCR: US-FEDERAL COURT OF APPEALS DISTRICT OF COLUMBIA EXHIBIT-13-1.)

3

5

9

10

11

12

13

14

15

16

19

20

21

ų.

10

11

13

14

15

16

17

18

19

20

21

22

24

5/17/2004 LAS VEGAS PUBLIC COMMENTS

> an that we can be in communication in regards er cuizen proposal in this area that may pugh these counties. Contact me or 75)324-7667. Nether

our proposals directly t Reid and Em Con cast also conta the BLM kno also. Generally COLUMNY. but BLM does not b treat to wilderness study area. e to treat it any differently unless if pecome designated wildeness by

RAYMOND IZE net Yucce and against transportation of was et it's a desgravous situations ally wi world conditions today. inewhere bel New York or te is coming from **JUST** wherever class i more of something h there's top g ag, and they're jug sple between here and the

y my voice is New York but vo 19 tape, but I moved here for my retire 20 know In still working in a different career. 21 Init t gway from certain things. I love Les 23 . I now have grandchildren here living here in Vegas and don't want the dangers of waste being 0 miles away.

F I'm the chairman, CEO Nevada Central Railroad, dhe Great Basin Railroad. dhe Neveda Northern Railroad. I'm the CEO of Aviation Technologies Limited, a Novada corporation, incorporated in 1987 in the state of Nevada,

The Nevada Central Railroad is owned by Aviation Technologies Limited. Nevada Central Railroad as a Nevada Corp. that was incorporated in July of 2003.

History regarding the intended construction of a reilroad by Aviation Technologies Limited and Nevada Central Railroad is as follows: In 1988 I, acting on behalf of Aviation Technologies Limited, executed an analysis and study within the western United States from Bi Paso, Texas west through New Mettico, Arizona, Nevada and north through Oregon, Washington state ending at Vencouver, Canada of the visibility of the construction of a communical north/south west/central region beavy, high speed meinline rail system.

In 1991 we completed the initial according and came to conclusions in relation to the first phase of potential construction of what was then named the Nevada Central Railroad, and by '93 made final corporate decisions relating to the financial

to for our whole economy here with the patry and everything else why would peo 2 3 rre sitting on a hot bed? COM Addida sole are eaving they're for because it's bring jobs here for the people or whi pusy get jobe ig Nevada, Overall P r to buy! and not anté here 8 have the waste come

and endanger everyone? But there are jobs an 11 somewhere. If they we 12 fine, buy from cut a 13 bring the waste that irs deligations We have to We have over a million 15 bere in Lake 16 in Clark You have people retiring it HOVE ourism, millions of people per y e That would nust endenger every 19 REN LEVENSON: I am just opposed to orting it under very lax security a

ROBERT ALAN KEMP (STATEMENT ORALLY GIVEN TO DOB BLACK).

feasibility and traffic analysis to support the conclusion, execution and construction of a construction project that would be initiated within the state of Nevada on a route that was determined by the U.S. Department of Energy and identified by U.S. DOE as the Cartin route and Jean route.

We decided by 1996, after executing a number of mortings in Las Vegna, Nevada with the U.S. Department of Bnergy at the request of the U.S. Department of Energy, to move forward and initiate a commercial independent reil construction project. A documented proposal was provided by Aviation Technologies Limited to the U.S. Department of Energy Las Vegas, Nevada in 1996. That in concept was exproved by Nive County Commission on October 15, 1996 in America Valley.

ATL then proceeded, the Noveda Central Kathroad, to then execute the final construction type design specifications, and by 2002 executed a program to acquire necessary legal funding for the execution and construction of the Navada Central Railroad in an exproximate amount of four billion U.S. dollars deriving from commercial public bonding to be colleteralized with the reached and railway system. in 2003 Aviation Technologies Limited, by an

10 (Pages 37 to 40)

6/21/2004 www.leuriewebb.com

Laurie Webb & Associates 800-982-3299

702-386-9825

Page -5-

Page 43

'n

10

12

14

15

16

18

20

21

24

Z

S

б

11

13

14

16

17

18

19

20

INCR: US-FEDERAL COURT OF APPEALS DISTRICT OF COLUMBIA EXHIBIT-13-1.]

11

12

14

15

16

18

20

21

22

23

24

2

3

S

10

11

12

13

14

16

17

18

19

20

21

22

23 24 25

LAS VEGAS PUBLIC COMMENTS 5/17/2004

Pagel

through its general counsel. Pritz Kahn, notified the U.S. Surface Transportation Board of its notice to execute a construction permit and begin construction, that was July 17, 2003, of the Nevada Central Railroad bypass. The trade name for that particular system owned and controlled by Aviation Technologics Limited through its wholly owned subsidiary Nevada Central Railroad is the NCR bypass, and that has been trademarked.

ATL and Nevada Central Railroad staff in July and August of 2003 contacted the U.S. Department of Energy in Weshington, D.C. and provided the previously identified information to U.S. DOB staff working under the supervision and authority of Margaret S. Cku. U.S. Department of Energy staff provided Nevada Central Railroad and Aviation Technologies staff with the final 2003 EIS so that Nevada Central Railroad could provide same to the U.S. Surface Transportation Board, which has since been completed following the six-month waiting period under the Federal Rail Agency and Surface Transportation Board regulations following the initial notice of construction in 2003. Surface Transportation Board has

appropriately responded three times to ATL staff as

reply that was copied to U.S. Department of the Interior, Bureau of Land Management. Prior to Manager Chu's provision of testimony to the United States Congress and Senate concerning her future requirements for the 2005 budget, which later included her subsequent decision followed by confirmation and communication by telephone, prior to her testimony to Congress of her decision in relation to the selection of the Culicute route. 10

At all reasonable times the U.S. Department of Energy has been made aware through both oral and documented communication of the existence and public notice of intent to construct the NCR bypass as a north/south route within the state of Nevada. Mr. Pritz Kahn, general counsel for Nevada Central Railroad, executed a documented letter to the City of 17 Ely on February 12th, 2004 to acting mayor Robert B. Miller, Mayor, City of Bly, informing the City of Bly that NCR had already executed its notice of intent to construct its north/south bypess route along the historic Nevada Northern Railway right-of-way that in general terms runs from the Ruth mine through Ely to McGill junction due north to Shafter and Covre. Covre and Shafter are the intersections to the Union

Page 44

well as direct documented response to ATL and Nevada Central Railroad general coursed logal

representatives in Washington, D.C. Nevada Central Railroad staff and Aviation Technologies Limited staff replied to the notice of withdrawal that was publically noticed by U.S. Department of Interior, Bureau of Land Management through documented communication on Monday, March 29th, 2004 by copying original communications to Dennis Samuelson, BLM coordinator for the state of Nevada working under authority of Bob Abbey. Such documented communication was legally addressed and provided to Margaret S. Chu personally as confirmed as received on March 29th, 2004 at her offices within the Department of Energy. 15

ATL NCR staff confirmed receipt by U.S. BLM through direct arel communication with Dennis Samuelson and state of Nevada BLM director Rober Abbey, as well additional staff within Margaret Church office to include Jay Johnson and senior DOE staff directed by Missant Chu.

Robert Alan Kemp, acting as a legally

designated officer of Aviation Technologies Limited and the Nevada Central Railmad contacted Margaret Chu by telephone personally to confirm receipt of our City.

The communication that I will provide to the U.S. Department of Energy in relation to the provision of community today from Fritz Kalen will be identified by my mitials RAK Exhibit 13-A.

Pacific east/west mainline that runs to Salt Lake

On May 5th, 2004 Aviation Technologies and Novada Central Railroad staff provided documented request for the inclusion of agenda items relating to the construction of the Nevada Central Railroad NCR bypass within the state of Novada to White Pine County District Attorney Richard Sears, and White

Pine County Clerk Mrs. Dottes Buth.

ATL NCR staff provided the City of Bly city council by and through its district attorney, which is also Richard Sears, acting for and on behalf of the City of Ely, also to Jim Allworth, the city clerk, City of Fly, Neveda, and by and through Sha Bybee, the acting mayor pro tem, of its notice of intent for the inclusion of agenda items relating to the construction of the Nevada Central Railroad.

For purposes of identification in relation to the provinion of comments today, I am going to identify the May 5th, 2004 notice to Winte Pine County District Attorney Sears as RAK 13-B.
For purposes of identification in relation

11 (Pages 41 to 44)

6/21/2004 www.lauriewebb.com

Laurie Webb & Associates 800-982-3299

Fegs 47

Page 48

9

10

12

14

15

25

5

11

INCR: US-FEDERAL COURT OF APPEALS DISTRICT OF COLUMBIA EXHIBIT-13-1.1

9

13

14

16

17

19

21

22

23

2

5

6

9 10

11

12

13

14

15

16

17

18

10

20

2l

22

23 24

25

LAS VEGAS PUBLIC COMMENTS 5/17/2004

Page 45

to provision of consuments today I'd like to refer to the documented notice to the City of Ely through City Attorney Richard Sears as RAK 13-C.

I'm going to include with my comments today to the U.S. Department of Energy a copy of Nevada Revised Statute chapter 37.230, which is condemnation by railroad companies. And I will refer to this in relation to my comments for purposes of identification as RAK Exhibit 13-D.

I'm some to include with my comments today the provision of a documented presentation that was executed to the White Pine County Commission as well as the City of Ply city council. And for purposes of identification I'll refer to that as RAK Exhibit 13-E.

16 In conclusion the Nevada Central Railroad is a commercial railroad existing within the central corridor of the state of Nevada that in relation to 17 19 U.S. Department of Interior federal statutes under U.S. congressional code as well as the U.S. Federal 20

21 Railway Act exists as a railroad under construction. 22 Railroads under construction water the 23 Pederal Railway Act as well as regulations of the Department of Interior cannot be interfered with by

any federal agency, state or local state governmental

Interior by and through the Secretary of Interior to the U.S. government. We will copy the provision of this filing to Margaret S. Chu and Robert Abbey, State of Novada, Director Bureau of Land Manage ATL NCR staff have confirmed with U.S. Department of Energy staff in Washington, D.C. that

mil alignment directly to the U.S. Department of

the 2003 EIS was a legally qualified final EIS under U.S. Environmental Protection Agency regulations that meets in excess of 70 percent of the EIS requirements 10 for the construction by U.S. Department of Energy of a rail corridor within the state of Nevada. 12

In direct conflict with documented decisions provided to ATL NCR staff by and through the U.S. Surface Transportation Board, office of SEA, ATL NCR staff intend to proceed and notify Congress and Senate of the United States of the existing conflict that relates between Surface Transportation Board and U.S. Department of Energy in relation to the characterization, specific technical applicability and identification referencing of information contained within the U.S. DOE final BIS of 2003 that is applicable within the scope of the Surface Transportation Board filing by ATL NCR staff to the

STB in 2003 to most other NEPA or commercial EIS

Page 46

incorporated entities, such as a city or town, or other commercial entity with the exception of a proceisting commercial reilroad.

ATL NCR makes its that it has properly noticed the U.S. Department of Energy of its legally defined excistence as a railroad under construction within the legislation approved by Senate and Congress as an existing railroad system within the state of Nevada authorized by Congress as a commercial transport provider expuble of providing a connection to Yucca. Mountain repository for purposes of meeting all U.S. DOE heavy transportation requirements.

The Nevada Central Railroad, by and through

12 13 its general counsel and legal staff in Washington, 14 D.C., will execute a filing with the Secretary of 15 Interior in June 2004 to obtain a permanent curement, a portion of which has already been identified by 17 U.S. Department of Energy Margaret S. Cha for land withdrawal in direct conflict with Department of 19 Interior and BLM resulations that integrate with the Federal Railway Act concerning impact to a commercial 21 railroad operation and/or construction project.

NCR will then proceed to provide a general 24 map, a legal description and GPS coordinates of its. intended corridor as well as specific site survey

requirements under the construction parmit process of the Surface Transportation Board, U.S. DOT. That concludes my comments.

(Thereupon the proceedings were concluded at 8:00 p.m.)

12 (Pages 45 to 48)

6/21/2004 www.lauriewebb.com

Laurie Webb & Associates 800-982-3299

702-386-9825

Page -5-